



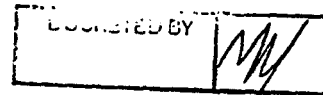
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Arizona Corporation Commission

BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
COMMISSIONER-CHAIRMAN
TONY WEST
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

APR 21 1999



IN THE MATTER OF THE APPLICATION OF
APS ENERGY SERVICES COMPANY, INC. FOR
A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
RETAIL ELECTRIC SERVICES AS AN
ELECTRIC SERVICE PROVIDE PURSUANT TO
A.A.C. R14-2-1601 *ET SEQ.*

DOCKET NO. E-03661A-98-0674

DECISION NO. 611669OPINION AND ORDER

DATE OF HEARING: February 10, 1999

PLACE OF HEARING: Phoenix, Arizona

PRESIDING OFFICER: Teena Wolfe

APPEARANCES: Mr. Thomas L. Mumaw, SNELL & WILMER, LLP, on
behalf of APS Energy Services Company, Inc.;Mr. Michael M. Grant, GALLAGHER & KENNEDY,
on behalf of Arizona Electric Power Cooperative,
Graham County Electric Cooperative, and Duncan
Valley Electric Cooperative;Mr. Raymond S. Heyman, ROSHKA, HEYMAN &
DEWULF, PLC, on behalf of NEV Southwest, LLC.;Mr. Steven M. Wheeler, SNELL & WILMER, LLP, on
behalf of Arizona Public Service Company;Mr. Douglas C. Nelson, PC, on behalf of Calpine Power
Services;Ms. Karen E. Nally, Staff Attorney, on behalf of the
Residential Utility Consumer Office;Mr. Michael W. Patten, BROWN & BAIN, PA, on
behalf of Illinova Energy Partners and Semptra Energy
Trading;Mr. Robert S. Lynch, on behalf of the Arizona
Transmission Dependent Utility Group; andMs. Janet Wagner, Staff Attorney, Legal Division, on
behalf of the Utilities Division of the Arizona
Corporation Commission.

1 **BY THE COMMISSION:**

2 On November 20, 1998 APS Energy Services Company, Inc. ("APSES") filed with the
3 Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience
4 and Necessity to supply competitive services as an electric service provider ("Application").

5 On December 1, 1998, the Commission's Utilities Division Staff ("Staff") filed its Staff
6 Report in this matter, recommending approval of the Application following a hearing.

7 By Procedural Order dated December 4, 1998, all the Affected Utilities as defined by the
8 Retail Electric Competition Rules¹ were joined as parties in this matter with the opportunity to
9 respond to APSES' Application, and were given notice that if the Application was granted, their
10 Certificates of Convenience and Necessity ("Certificates" or "CC&Ns") would be rescinded, altered,
11 or amended pursuant to A.R.S. §40-252. Those parties so joined and noticed include Tucson Electric
12 Power Company ("TEP"), Arizona Public Service Company ("APS"), Citizens Utilities Company,
13 Arizona Electric Power Cooperative, Trico Electric Cooperative, Duncan Valley Electr
14 Cooperative, Graham County Electric Cooperative, Mohave Electric Cooperative, Sulphur Springs
15 Valley Electric Cooperative, Navopache Electric Cooperative, Ajo Improvement Company, and
16 Morenci Water and Electric Company, and are referred to collectively herein as "Affected Utilities."

17 Other parties who requested and were granted intervention in this matter include Enron Corp.
18 ("Enron"), Cyprus Climax Metals Company ("Cyprus"), ASARCO Incorporated ("ASARCO"),
19 PG&E Energy Services Corporation ("PG&E"), the Residential Utility Consumer Office ("RUCO"),
20 Illinova Energy Partners ("Illinova"), Sempra Energy Trading ("Sempra"), Calpine Power Services
21 ("Calpine"), the Arizona Transmission Dependent Utility Group ("ATDUG"), NEV Southwest,
22 L.L.C., and the City of Phoenix.

23 On February 4, 1999, Staff issued a Supplement to its December 1, 1998 Staff Report
24 ("Supplemental Staff Report"). The Supplemental Staff Report, which continued to recommend
25 approval of the Application, contained additional recommended conditions that Staff believed to be

26 ¹ A.A.C. R14-2-1601 *et seq.*, which were in effect on the date the December 4, 1998 Procedural Order was issued.
27 Decision No. 61311 (January 11, 1999) stayed the effectiveness of the Retail Electric Competition Rules. However, in a
28 separate Decision today, we order that new Proposed Retail Electric Competition Rules ("Proposed Rules") be forwarded
to the Secretary of State for Notice of Proposed Rulemaking. Sections 1601 of both the stayed Rules and the Proposed
Rules define the same entities as "Affected Utilities."

1 necessary in light of Decision No. 61311 (January 11, 1999), which temporarily stayed A.A.C. R14-
2 2-1601 *et seq.* ("Retail Electric Competition Rules" or "Rules").

3 This matter came before a duly authorized Hearing Officer of the Commission at the
4 Commission's offices in Phoenix, Arizona on February 10, 1999. Applicant and Staff presented
5 evidence at the hearing. At the conclusion of the hearing, the matter was taken under advisement
6 pending submission of a Recommended Opinion and Order to the Commission.

7 DISCUSSION

8 APSES, an Arizona corporation, is a wholly-owned subsidiary of APS, which in turn is a
9 wholly-owned subsidiary of Pinnacle West Capital Corporation ("Pinnacle West"), an Arizona
10 corporation. By its Application, APSES seeks Certification as a load-serving entity to provide
11 competitive retail electric services including aggregation services in all areas of the state which the
12 Commission has designated as open to retail electric competition.

13 APSES does not own any electrical generating capacity, but proposes to supply Arizona
14 customers with electricity it will acquire from other generation companies located inside and outside
15 Arizona via long-term supply contracts, medium term market purchases, and spot market purchases.
16 As a load-serving entity, APSES would reserve transmission and distribution services from Utility
17 Distribution Companies in order to provide electricity to end-use customers. APSES also seeks
18 Commission approval to resell meter services and meter reading services to retail customers, but not
19 to provide those services directly.

20 APSES has acquired its key technical and operational personnel for marketing, energy
21 service, customer services and product and information technology from APS, the parent company of
22 APSES. APS is a registered Electric Service Provider in California and is also registered under
23 Montana's provisions for interim registration as an Electric Service Provider in Montana. In
24 addition, APS is certified by the California Independent System Operator ("ISO") to operate as a
Scheduling Coordinator. APSES proposes to act as its own Scheduling Coordinator in Arizona.
26 APSES' Application states that APS has initially capitalized APSES in the amount of \$25 million.
27 According to Staff's analysis, APSES possesses the requisite technical and financial capability to
28 provide competitive retail electric service within the State of Arizona. No evidence to the contrary

1 has been presented in this docket. We will, however, require that within thirty days of the date of this
2 Decision, APSES shall file, for approval, documents that clarify the extent of the financial
3 commitment APSES has received from its parent companies with the Director, Utilities Division.

4 APSES has been organized as a subsidiary of APS rather than as a subsidiary of Pinnacle
5 West, in accordance with company policy of making non-regulated entities subsidiaries of Pinnacle
6 West and regulated entities subsidiaries of APS. Staff noted in its Staff Report that a side effect of
7 this form of corporate structure is that APSES' status as a subsidiary of APS could serve to shield the
8 affiliates from charges of collusive behavior in violation of antitrust law. We agree with Staff that
9 APSES should be organized as a subsidiary of Pinnacle West or other acceptable entity, and not as a
10 wholly-owned subsidiary of APS. We can therefore grant a waiver to APSES from A.A.C. R14-2-
11 803(A) only if it is reorganized as a subsidiary of Pinnacle West or other entity, and not as a wholly-
12 owned subsidiary of APS. We will provide thirty days from the effective date of this Decision for
13 that reorganization.

14 Supplemental Staff Report Recommended Conditions

15 On February 4, 1999, Staff filed its Supplemental Staff Report. At the pre-hearing conference
16 on February 5, 1999, the parties were advised that they would have an opportunity to address the
17 issues raised in the Supplemental Staff Report in opening statements at the hearing, and that the
18 parties could also file written comments on the Supplemental Staff Report if desired. On February 9,
19 1999, RUCO filed written comments, and on February 17, 1999, Enron, Cyprus, and ASARCO
20 ("Enron et al.") filed written comments.

21 In the Supplemental Staff Report, Staff recommended that APSES should not be allowed to
22 provide competitive services in the service areas of the Affected Utilities until the current stay of the
23 Retail Electric Competition Rules is lifted, but that this condition should not apply to APSES'
24 provision of competitive retail electric services in areas opened to competition by enacted HB 2663.

25 The Supplemental Staff Report also contained a recommendation that approval of APSES'
26 Application should be conditioned upon APSES and APS, its parent and Affected Utility affilia'
27 adhering to the code of conduct that APS submitted to the Commission in this docket on November
28 30, 1998 ("Code of Conduct"), and that the Code of Conduct should be maintained to address

1 concerns that Staff outlined in the Supplemental Staff Report. Staff also recommended that APSES
2 and APS be required to maintain a Code of Conduct and to submit any updates or changes to the
3 Director, Utilities Division for approval thirty days prior to the intended adoption of those updates or
4 changes. In addition, Staff recommended that specific language additions and clarification be made
5 to the Code of Conduct, and that the Commission approve the Code of Conduct after those changes
6 are made. Staff stated that in the absence of final Retail Electric Competition Rules, the safeguards
7 Staff listed in the Supplemental Staff Report are necessary to protect APS' ratepayers from
8 subsidizing competitive services, and to create a level playing field for competitors in the Arizona
9 market.

10 RUCO stated in its written comments that it fully supported Staff's recommended additions to
11 the APS and APSES Code of Conduct. RUCO proposed that seven additional safeguards, plus all of
12 Staff's conditions that appear on page two but are not specifically listed on page three of the
13 Supplemental Staff Report, be incorporated into the Code of Conduct. RUCO also commented that
14 the Commission or any party should be allowed to request a hearing on any updates or changes to the
15 Code of Conduct submitted to the Director, Utilities Division prior to approval by the Director.

16 In its opening statement at the hearing, Calpine joined in Staff's Supplemental Staff Report
17 recommendations and in RUCO's written comments to Staff's Supplemental Staff Report. ATDUG
18 expressed the view in its opening statement that the CC&Ns of all new market entrants should have
19 the same conditions.

20 Both APSES and APS indicated at the hearing that they oppose having APSES' CC&N be
21 conditioned as Staff recommended in the Supplemental Staff Report and as RUCO recommended in
22 its written comments. Both APSES and APS asserted that the Code of Conduct requirements are
23 premature in the absence of a final form of rule regarding affiliate interest requirements, to which
24 APSES will be subject.

5 Enron et al., in their written comments submitted after the hearing, contended that the
6 Commission should finalize its adoption of the Retail Electric Competition Rules prior to addressing
7 any utility-specific codes of conduct or requests for waivers therefrom, and that prior to adoption of
8 final Rules, the Code of Conduct and Staff's proposed changes thereto are premature.

1
2 Conclusion

3 APSES has demonstrated that it is a fit and proper entity to receive a CC&N to provide
4 competitive services as an Electric Service Provider within the State of Arizona.

5 We agree with Staff that due to the stay of the Electric Competition Rules, the important issue
6 of when APSES should be allowed to provide competitive service under its Certificate should be
7 addressed. In this Decision, we will authorize APSES to provide competitive services in the areas
8 opened to competition by enacted HB 2663 effective immediately. However, we will not authorize
9 APSES to provide competitive service in any Certificated area of any Affected Utility until the
10 Certificate of the respective Affected Utility has been amended to allow entry by competitive electric
11 service providers, and until the service territory of APS, APSES' Affected Utility affiliate, is opened
12 to competition.²

13 We agree with Staff, RUCO, and Calpine that some measures should be taken to prevent th
14 ratepayers of the incumbent utilities from subsidizing competitive services. However, in light of the
15 fact that new market entrants such as APSES must comply with any rules the Commission finally
16 adopts governing affiliate interests, it is inappropriate at this time to establish by Order specific code
17 of conduct requirements. At such time that final Retail Electric Competition Rules are in effect, all
18 Electric Service Providers, including APSES, will comply with the Rules as promulgated.

19 * * * * *

20 Having considered the entire record herein and being fully advised in the premises, the
21 Commission finds, concludes, and orders that:

22 FINDINGS OF FACT

- 23 1. On November 20, 1998, APSES' Application was docketed with the Commission.
24 2. APSES, an Arizona corporation, is a wholly-owned subsidiary of APS, an Affected
25 Utility.
26 3. APS is a wholly-owned subsidiary of Pinnacle West Capital Corporation.

27
28 ² These conditions are a requirement of Proposed A.A.C. R14-2-1602, which is included in the Proposed Retail Electric Competition Rules which we order today to be forwarded to the Secretary of State for Notice of Proposed Rulemaking.

1 4. On December 1, 1998, Staff issued its Staff Report on the Application, recommending
2 approval of the Application following a hearing.

3 5. By Procedural Order dated December 4, 1998, the Affected Utilities were joined as
4 parties in this matter with the opportunity to respond to APSES' Application, and were given notice
5 that if the Application was granted, their CC&Ns would be rescinded, altered, or amended pursuant
6 to A.R.S. §40-252.

7 6. Other parties who requested and were granted intervention in this matter include
8 Enron, Cyprus, ASARCO, PG&E, RUCO, Illinova, Semptra, Calpine, ATDUG, NEV Southwest,
9 L.L.C., and the City of Phoenix.

10 7. On December 11, 1998, Decision No. 61311 stayed the Retail Electric Competition
11 Rules.

12 8. On November 13, 1998, APSES filed certification that the requirement that Arizona
13 power companies be notified concerning its Application was satisfied on October 23, 1998.

14 9. On November 23, 1999, APSES filed an amendment to its Application in which it
15 provided its proposed maximum annual rate for meter service of \$10,000 and its proposed maximum
16 monthly rate for meter reading services of \$40 per meter.

17 10. On November 30, 1998, APS submitted its Code of Conduct in this docket.

18 11. On December 28, 1998, APSES filed certification that notice of the hearing was
19 published as required by the December 4, 1998 Procedural Order.

20 12. On January 21, 1999, TEP filed its Statement of Legal Position in Lieu of Testimony.

21 13. On February 4, 1999, to address the effects of Decision No. 61311's stay, Staff issued
22 its Supplemental Staff Report containing Staff recommendations that placed additional conditions on
23 the approval of APSES' Application.

24 14. On February 9, 1999, RUCO filed written comments on the Supplemental Staff
25 Report, and on February 17, 1999, Enron et al. filed written comments on the Supplemental Staff
26 Report.

27 15. On February 10, 1999, a public hearing was held as scheduled, at which APSES and
28 Staff presented evidence.

1 16. At the hearing, the parties stipulated to incorporate into the record in this proceeding
2 the testimony and cross-examination of Mr. Williamson and Mr. Shand of Commission Staff in the
3 proceedings on the application of PG&E Energy Services Corporation for a Certificate of
4 Convenience and Necessity to Supply Competitive Services as an Electric Service Provider, Docket
5 No. E-0359A-98-0389.

6 17. In its Staff Report and at the hearing, Staff recommended that approval of the
7 Application be made subject to the following conditions:

8 (a) APSES have a service acquisition agreement, approved by the Director,
9 Utilities Division, with the Utility Distribution Company in each service area prior to
10 providing service within that service area;

11 (b) APSES either have a service agreement with a Scheduling Coordinator or
12 become certified by the Arizona Independent System Administrator as its own
13 Scheduling Coordinator prior to the provision of service; and

14 (c) APSES acquire a surety bond in the initial amount of \$100,000 for collected
15 customer funds, including deposits or advances prior to providing services and for
16 provider default or non-performance.

17 18. Staff recommended that APSES be granted a waiver of R14-2-803(A) with respect to
18 the formation of APSES as an affiliate of a public utility holding company.

19 19. APSES is willing to become a direct subsidiary of Pinnacle West. APSES request
20 thirty days to complete the reorganization, and also requests that its affiliates Pinnacle West and APS
21 be granted exemptions from A.R.S. § 40-285(A) to the extent that the transfer of competitive utility
22 assets from APS to APSES is not otherwise exempted under A.R.S. § 40-285(C).

23 20. In its Supplemental Staff Report and at the hearing, Staff further recommended that
24 APSES' CC&N should be conditioned upon the continued adherence of APSES and APS to the Code
25 of Conduct; that specific language be added to item 6.3 of the Code of Conduct to provide a
26 description of any service that APS will be performing for APSES with an explanation of how APS
27 will be reimbursed by APSES; and that section 4.3 of the Code of Conduct be clarified to specifically
28 require the following:

29 (a) That APSES shall not trade, promote, or advertise its affiliation with APS, nor
30 use or make use of APS' name or logo in any material circulated by APSES, unless it

discloses in plain legible or audible language, on the first page or at the first instance that the APS name or logo appears, that APSES is not the same company as APS, and customers do not have to buy APSES' products in order to continue to receive quality regulated services from APS; and

(b) That APSES shall not participate in joint advertising, marketing, or sales with APS.

21. RUCO supported Staff's recommendations regarding the Code of Conduct as described in Findings of Fact No. 20 above, in order to insure that APSES does not unfairly use its affiliation with APS to the detriment of ratepayers, and suggested in its written comments that the following additional safeguards be incorporated in the Code of Conduct:

(a) An Affected Utility or Utility Distribution Company shall not share office space, equipment, services, and systems with its competitive electric affiliates, nor access any computer or information systems of one another, except to the extent appropriate to perform shared corporate support functions;

(b) An Affected Utility or Utility Distribution Company shall not share office space, equipment, services, and systems with its other affiliates without full compensation in accordance with the following: For all transfers that are not prohibited, goods and services provided by an Affected Utility or Utility Distribution Company to an affiliate shall be transferred at the tarified price and under the tarified terms and conditions. If they are non-tarified items, the transfer price shall be the higher of fully allocated cost or market price. Transfers from an affiliate to its affiliated UDC shall be priced at the lower of fully allocated cost or fair market value;

(c) An Affected Utility or Utility Distribution Company shall not offer or provide to its affiliates advertising space in any customer written communication unless it provides access to all other unaffiliated service providers on the same terms and conditions;

(d) Any list of Electric Service Providers provided by an Affected Utility or Utility Distribution Company to its customers which includes or identifies the Affected Utility's or Utility Distribution Company's competitive electric affiliates must include or identify non-affiliated entities included on the list of those Electric Service Providers authorized by the Commission to provide service within the Affected Utility's or Utility Distribution Company's Certificated area;

(e) An Affected Utility or Utility Distribution Company may provide non-public supplier information and data, which it has received from unaffiliated suppliers, to its affiliates or nonaffiliated entities only if the Affected Utility or Utility Distribution Company receives prior authorization from the supplier;

(f) Except as authorized, an Affected Utility or Utility Distribution Company shall not offer or provide customers advice, which includes promoting, marketing or selling, about its affiliates or other service providers;

(g) An Affected Utility, Utility Distribution Company, or their affiliates shall not provide their affiliates, or customers of their affiliates, any preference over non-affiliated suppliers or their customers in the provision of services;

1 (h) That all of Staff's conditions that appear on page two but are not specifically
2 listed on page three of the Supplemental Staff Report be made part of the requirements
3 for APSES' and APS' Code of Conduct; and

4 (i) That the Commission or any party may comment and/or request a hearing on
5 any updates or changes to the Code of Conduct submitted for approval to the Director,
6 Utilities Division prior to approval by the Director.

7 22. Calpine joined in Staff's Supplemental Staff Report recommendations and in RUCO's
8 written comments to Staff's Supplemental Staff Report.

9 23. APSES and APS both indicated their position that code of conduct issues should be
10 dealt with in Commission rules as opposed to on a case-by-case basis in CC&N proceedings.
11 APSES' witness testified that APSES plans to fully comply with the Rules once they are finalized,
12 and that it believed that any code of conduct requirements should be equally imposed on all
13 competitors.

14 24. ATDUG indicated its position that the CC&Ns of all new market entrants should have
15 the same conditions.

16 25. APSES indicated that the maximum rate of \$25 per kilowatt hour provided in it
17 Application was not based on a regulatory cost of service analysis or tied to APSES' property value.

18 26. APSES indicated that its proposed maximum rate of \$10,000 per year for meter and
19 meter maintenance charges and its proposed maximum rate of \$40 per month for meter reading
20 services were based on the experiences of APS in the California competitive retail electric market.

21 27. APSES does not seek Certification at this time as a meter service provider or meter
22 reading service provider, but requests Commission authorization to resell those services to its
23 customers.

24 28. Staff did not conduct a monopoly rate setting analysis prior to recommending approval
25 of APSES' maximum rates proposed in its Application.

26 29. In a separate Commission Decision issued today, Staff was ordered to forward the
27 Proposed Rules to the Secretary of State for Notice of Proposed Rulemaking.

28 CONCLUSIONS OF LAW

1. APSES is a public service corporation within the meaning of Article XV of the
Arizona Constitution.

1 2. The Commission has jurisdiction over APSES and the subject matter of the
2 Application.

3 3. Notice of the hearing was given in accordance with law.

4 4. Pursuant to our December 4, 1998 Procedural Order, the Affected Utilities were given
5 notice that if the Application was granted, the CC&Ns of the Affected Utilities would be rescinded,
6 altered, or amended pursuant to A.R.S. § 40-252.

7 5. The Arizona Legislature's enactment of House Bill 2663 and the Commission's
8 issuance of Decision Nos. 59943, 60977, 61017, and the separate Decision we issue today in which
9 we order Staff to forward new Proposed Retail Electric Competition Rules to the Secretary of State
10 for Notice of Proposed Rulemaking, have made it clear that competition in the provision of retail
11 electric services is the public policy of Arizona.

12 6. APSES possesses adequate technical and financial capabilities to provide the proposed
13 services.

14 7. APSES' CC&N should be subject to the conditions recommended by Staff in Findings
15 of Fact No. 17 above.

16 8. APSES should be authorized to resell meter services and meter reading service to its
17 customers.

18 9. APSES should be organized as a subsidiary of Pinnacle West or other entity, and not
19 as a wholly-owned subsidiary of APS.

20 10. APSES should be granted a waiver of A.A.C. R14-2-803(A) with respect to the
21 formation of APSES as an affiliate of a public utility holding company only if it is reorganized as a
22 subsidiary of Pinnacle West or other entity, and not as a wholly-owned subsidiary of APS.

23 11. Affiliate interest guidelines and requirements should be provided by Commission rules
24 of general applicability rather than by individual Order.

25 12. Rates and terms and conditions of service adopted herein are fair, reasonable and
26 consistent with the Proposed Retail Electric Competition Rules which will be forwarded to the
27 Secretary of State for Notice of Proposed Rulemaking pursuant to the separate Commission Decision
28 we issue today, and with the underlying policies of the Arizona Constitution.

13. The Affected Utilities received notice of the possibility of rescission, alteration or amendment of their existing CC&Ns should APSES receive a CC&N to supply competitive services as an electric service provider within the service territories of the Affected Utilities.

14. The Affected Utilities had an opportunity to be heard on the possibility of rescission, alteration or amendment of their existing CC&Ns.

15. Issuance of a CC&N requires the Certificate holder to make an adequate investment and to render competent and adequate service.

16. There was no evidence presented in this proceeding indicating that any of the Affected Utilities had failed to render adequate service or had charged unreasonable rates.

17. Granting APSES' Application for a CC&N to supply competitive services as an electric service provider within the service territories of the Affected Utilities is in the public interest, because it will provide a reasonable opportunity for the potential benefits of competition to develop in the State of Arizona.

18. It is not in the public interest to rescind, alter or amend the CC&N of any Affected Utility prior to final resolution of the Stranded Cost issues for that Affected Utility.

19. It is not in the public interest to allow APSES, an affiliate of APS, an Affected Utility, to offer competitive services in any other Affected Utility's service territory until APS' service area is opened to competition.

20. APSES' affiliates Pinnacle West and APS should be granted such exemptions and waivers of the Commission's affiliate rules (A.A.C. R14-2-801 *et seq.*) as are necessary to reorganize APSES as a subsidiary of Pinnacle West.

21. The transfer of competitive utility assets from APS to APSES should be exempted from A.R.S. § 40-285(A) to the extent that such transfer is not otherwise exempt under A.R.S. § 40-285(C).

ORDER

IT IS THEREFORE ORDERED that the application of APS Energy Services Company, Inc. for a Certificate of Convenience and Necessity to supply competitive retail electric services as an electric service provider is granted, upon the condition that APS Energy Services Company, Inc.

1 comply with Staff's recommended conditions provided in Findings of Fact No. 17.

2 ✓ IT IS FURTHER ORDERED that within thirty days of the effective date of this Decision,
3 APS Energy Services Company, Inc. shall file documents with the Commission evidencing its
4 reorganization as a subsidiary of Pinnacle West Capital Corporation, and not as a wholly-owned
5 subsidiary of Arizona Public Service Company.

6 ✓ IT IS FURTHER ORDERED that within thirty days of the date of this Decision, APS Energy
7 Services Company, Inc. shall file documents to be approved by the Director, Utilities Division, that
8 clarify the extent of the financial commitment APS Energy Services Company, Inc. has received
9 from its parent company.

10 IT IS FURTHER ORDERED that APS Energy Services Company, Inc. is hereby authorized
11 to resell meter services and meter reading services to its customers.

12 IT IS FURTHER ORDERED that the request of APS Energy Services Company, Inc. that it
13 be granted a waiver of A.A.C. 14-2-803(A) with respect to the formation of APS Energy Services
14 Company, Inc. as an affiliate of a public utility holding company shall be granted only on the
15 condition that it is reorganized as a subsidiary of Pinnacle West or other acceptable entity, and not as
16 a wholly-owned subsidiary of Arizona Public Service Company.

17 IT IS FURTHER ORDERED that Pinnacle West Capital Corporation and Arizona Public
18 Service Company are granted such exemptions and waivers of A.A.C. R14-2-801 *et seq.* as are
19 necessary to reorganize APS Energy Services Company, Inc. as a subsidiary of Pinnacle West Capital
20 Corporation.

21 IT IS FURTHER ORDERED that the transfer of assets from Arizona Public Service
22 Company to APS Energy Services Company, Inc. is exempted from the provisions of A.R.S. § 40-
23 285(A) to the extent not already exempt under A.R.S. § 40-285(C).

24 IT IS FURTHER ORDERED that APS Energy Services Company, Inc. shall not be
25 authorized to provide competitive service in any Certificated area of any Affected Utility until the
26 Certificate of the respective Affected Utility has been amended.

27 ...

28 ...

IT IS FURTHER ORDERED that APS Energy Services Company, Inc. shall not be authorized to provide competitive service in any Certificated area of any Affected Utility until the Commission has ordered that the service area of APS Energy Services Company, Inc.'s affiliate Arizona Public Service Company be opened to competition.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


COMMISSIONER-CHAIRMAN


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, STUART R. BRACKNEY, Acting Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 21 day of April, 1999.


STUART R. BRACKNEY
ACTING EXECUTIVE SECRETARY

DISSENT
TIW:dap

1 SERVICE LIST FOR:

APS ENERGY SERVICES COMPANY

2 DOCKET NO.

E-03661A-98-0674

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